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Case Docket No. 7120

Date: April 11 2003

Nellie Touslee

THE COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Re: Application of: Tinianov
Serial No.: 09/845,791
Filed: April 30, 2001
For: ACOUSTIC CEILING TILES

Examiner: McCloud, Renata D.
Unit: 2837

Sir:

Transmitted herewith is/are the following document(s) related to the above-identified application:

- | | |
|---------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Acknowledgment of receipt card. | <input checked="" type="checkbox"/> Response to Office Action dated January 17, 2003. |
| <input type="checkbox"/> 3 Terminal Disclaimers. | <input type="checkbox"/> Certified copy of Declaration & Power of Attorney (Attachment B). |
| <input type="checkbox"/> Substitute specification and abstract (Attachment C). <input type="checkbox"/> | 1 Sheet of Drawings (Attachment D). |

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Robert D. Touslee
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TC 2800 MAIL ROOM

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Patent

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)

Brandon Dillan Tinianov) Group Art Unit: 2837

Application No.: 09/845,791) Examiner: McCloud, Renata D.

Filed: April 30, 2001)

For: ACOUSTICAL CEILING TILES)

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APR 16 2003
1C 2800 MAIL ROOM

RESPONSE TO OFFICE ACTION

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action dated January 17, 2003, reconsideration and allowance is respectfully requested in view of the following remarks.

Applicant would like to thank Examiner McCloud for the courtesy extended during the telephone interview of March 21, 2003 and follow up conversations of March 25, 2003 and March 26, 2003 with Applicant's attorney Cindy Lynch.

Rejection under 35 U.S.C. §112, second paragraph

In the Office Action, Claim 1 has been rejected under 35 U.S.C. §112, second paragraph as indefinite. Specifically, the term "around" in claim 1 is alleged to render the claim indefinite.

The term "around" has been used throughout the specification of the present application in the same manner as the term "about" is generally used in many patents. As discussed in the telephone interview, upon reading the specification and claims of the present application, one of ordinary skill in the art would understand the meaning of the term "around" to be the same as the generally accepted claim term "about". Accordingly, Applicant requests that the rejection under 35 U.S.C. §112, second paragraph, be withdrawn.

Further, as set forth in MPEP §2173.02 (Rev. 1 Feb. 2003), “some latitude in the manner of expression and aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire. Examiner’s are encouraged to suggest claim language to applicants to improve the clarity or precision of the language used, but should not reject claims or insist on their own preferences if other modes of expression selected by applicants satisfy the statutory requirement.” (Emphasis added)

During the telephone interview, Examiner McCloud indicated that the term “about” would be acceptable. Although Applicant would be willing to change the term “around” to “about” in the claims, Applicant requests that the rejection under 35 U.S.C. §112 be withdrawn and that the Examiner clarify that the claim is not rejected and it is merely the Examiner’s preference that the language be changed to that suggested by the Examiner. This procedure of withdrawing the §112 rejection and suggesting modifications to the claim language used, is described in MPEP §2173.02 in view of the Supreme Court’s decision in Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushik Co., 535 U.S. 722 (2002). In accordance with this section, Applicant requests that the rejection be withdrawn.

Rejection under 35 U.S.C. §103

In the Office Action, Claims 1, 2, and 4-7 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Haines et al. (5,824,973) in view of Le Masurier (3,858,676).

Claim 1 recites a system for improved sound absorption including a substrate of porous insulation material and a facing material attached to the substrate, wherein the total system resistance and the second air flow resistance of the facing material are of relatively low values. Claim 1 recites a total system air flow resistance of around between 900 to 1300 MKS Rayls. As acknowledged in the Office Action, Haines et al. does not teach a total system airflow resistance around between 900 to 1300 MKS Rayls. Instead, Haines et al. describes a total system air flow for the laminate of approximately 740 MKS Rayls. (Column 7, lines 25-28 of Haines et al.).

The Office Action states that Le Masurier teaches the total system air flow as claimed and cites the abstract and column 2, lines 35-54 of Le Masurier. However, on a careful reading of Le Masurier, it is clear to one of ordinary skill in the art that it is the heavy textile front and not the entire laminate of Le Masurier that has a SFR of 300 to 1800 MKS Rayls.

Specifically, the abstract states "the preferred construction involves a three layer panel having a perforated backing, **a heavy textile front having a surface mass of 12 - 24 ounces per 1 square yard and an SFR of 300 to 1,800 MKS rayls** and a fiberglass core." (Emphasis added) In addition, column 2, lines 35-37 state "in addition to the specified surface mass range, the facing material must have an SFR of from 300 to 1800 MKS rayls." Le Masurier goes on to state at column 2, lines 50-54 that "another example of a satisfactory material is the very dense monoacrylic fabric manufactured by JP Stevens Co, having a surface mass of 21 ounces/square yard and having an SFR of 1,200 MKS rayls." Finally, the table at the bottom of columns 3 and 4 of Le Masurier lists various flow resistances in MKS Rayls for the panels including different fabrics. The JP Stevens fabric is listed as examples 14 and 15 with the specific flow resistance of 1200 MKS Rayls. In addition, example 9 includes no fabric which has a flow resistance of zero MKS Rayls.

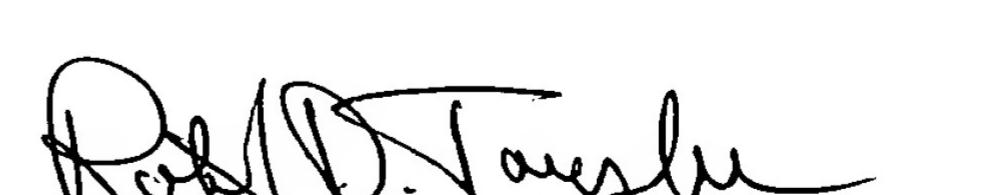
Nowhere in Le Masurier is a total system air flow resistance described. The only description of air flow resistance in Le Masurier is the air flow resistance for the textile front which is also called the facing material. Thus, the combination of Haines et al. and Le Masurier do not teach or suggest the combination of Claim 1 of the present application. Accordingly, Claims 1 and dependent Claims 2 and 4-7 are allowable.

Reconsideration and allowance of the above-identified application are respectfully requested. In the event that there are any questions concerning this amendment or the

application in general, the Examiner is respectfully urged to telephone the undersigned attorney so that prosecution may be expedited.

Respectfully submitted,

By:



Robert D. Touslee

Registration No. 34,032